IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 11TH DECEMBER 2006 / 20TH AGRAHAYANA 1928

Crl.MC.No. 4003 of 2006()

AGAINST THE ORDER IN LP 114 2005 IN
CC.1099/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA

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PETITIONER: ACCUSED

SOMARAJAN, AGED 52 YEARS,
S/O.SEKHARAN, SUNALAYAM, ENATHU P.O.,
PATHANAMTHITTA.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD

RESPONDENTS: STATE AND COMPLAINANT
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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. MOHAN MENON, MONAN'S COTTAGE,
ADOOR, PATHANAMTHITTA DISTRICT.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.4003 OF 2006

Dated this the 11th day of December, 2006.

ORDER

The petitioner is an accused in a prosecution under Section 138 of the N.I Act. He had entered appearance before the learned Magistrate, but he was later not available for trial. The learned Magistrate, in these circumstances, is proceeding to issue coercive process to secure the presence of the petitioner.

2. According to the petitioner, he had valid reasons for not appearing before the learned Magistrate. He was under compulsion of circumstances obliged to proceed to his place of employment and that was the reason why he was not present before the learned Magistrate when the case was called. The petitioner now wants to surrender before the learned Magistrate. The petitioner apprehends that his application for regular bail may not be considered promptly, favourably and on merits by the learned Magistrate. He therefore prays that a direction under Section 482 Cr.P.C may be issued to release him on bail when he appears before the learned Magistrate.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. In the result, this Crl.M.C is dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling reasons.

R.BASANT
JUDGE

rtr/